

AMENDMENTS TO HOUSE BILL NO. 1237

Sponsor: REPRESENTATIVE METCALFE

Printer's No. 1464

1 Amend Bill, page 1, line 8, by inserting after "review;"
2 providing for regulations deemed withdrawn; further providing
3 for procedures for subsequent review of disapproved final-
4 form or final-omitted regulations by the commission;

5 Amend Bill, page 1, line 14, by striking out "a definition"
6 and inserting
7 definitions

8 Amend Bill, page 2, lines 6 and 7, by striking out all of
9 said lines and inserting

10 "Legislative day." A day when both houses of the General
11 Assembly are in voting session.
12 * * *

13 Section 2. Section 5(a)(1.1) and (4) of the act are amended
14 and the section is amended by adding subsections to read:

15 Amend Bill, page 2, by inserting between lines 16 and 17

16 (1.1) A specific citation to the Federal or State
17 statutory or regulatory authority or the decision of a
18 Federal or State court under which the agency is proposing
19 the regulation, which the regulation is designed to implement
20 or which may mandate or affect compliance with the
21 regulation. In the case of a citation of State statutory
22 authority, the citation must be to a provision of the statute
23 that explicitly states that the agency may promulgate
24 regulations for the specific purpose cited in the statement
25 of need for the regulation under paragraph (3).

26 * * *

27 Amend Bill, page 2, lines 24 through 27, by striking out all
28 of said lines and inserting

29 1929."] The estimates shall be prepared by the
30 Independent Fiscal Office and submitted to the agency for
31 inclusion in the regulatory analysis form and shall include

1 an estimate of the annual costs to be used to determine
2 whether the regulation is an economically significant
3 regulation.

4 * * *

5 (d.1) The committees shall, during the public comment
6 period, conduct a public hearing to receive comments regarding a
7 proposed economically significant regulation. The agency shall
8 appear at the hearing if requested to do so by the chair of the
9 committee.

10 * * *

11 (i) All forms required for implementation of a regulation
12 must be included with the regulatory analysis form when
13 submitted to the Legislative Reference Bureau, the committees
14 and the commission under subsection (a).

15 (j) The commission shall transmit comments regarding the
16 cost estimates required under subsection (a)(4) to the
17 Independent Fiscal Office for review.

18 Section 3. Section 5.1(e), (j.2), (j.3) and (l) of the act
19 are amended to read:

20 Amend Bill, page 2, by inserting after line 30

21 (e) The commission may have until its next scheduled meeting
22 which occurs no less than 30 days after receipt of the final-
23 form or final-omitted regulation to approve or disapprove the
24 final-form or final-omitted regulation. Notwithstanding
25 subsections (j.1) and (j.2), at any time prior to 24 hours
26 before the commission's meeting to consider a regulation, a
27 committee may notify the commission and the agency that the
28 committee disapproves or intends to further review the final-
29 form regulation. If notified by a committee that the committee
30 disapproves of a regulation, the commission may not approve or
31 disapprove the regulation for a period of 30 days or 9
32 legislative days, whichever is longer. If notified by a
33 committee that the committee intends to further review a final-
34 form regulation, the commission may not approve or disapprove
35 the regulation for a period of 14 days or 6 legislative days,
36 whichever is longer. The commission shall notify the agency and
37 the committees of its approval or disapproval. If the commission
38 does not disapprove the final-form or final-omitted regulation
39 within the time allotted in this subsection, the commission
40 shall be deemed to have approved the final-form or final-omitted
41 regulation.

42 * * *

43 (j.2) (1) At any time during the commission's review period
44 up to 24 hours prior to the opening of the commission's
45 public meeting, a committee may notify the commission and the
46 agency that it has approved or disapproved a final-form or
47 final-omitted regulation or that it intends to review the
48 regulation.

49 (2) If the commission approves a regulation and a

1 committee has not notified the commission and the agency that
2 it has disapproved the regulation or that it intends to
3 review the regulation, the agency may promulgate the
4 regulation. If the commission approves a regulation and a
5 committee has notified the commission and the agency that it
6 has disapproved the regulation or that it intends to review
7 the regulation, the agency may not promulgate the regulation
8 for 14 days or 6 legislative days, whichever is longer, after
9 the committee has received the commission's approval order.

10 (3) During [this 14-day period] the period established
11 under paragraph (2), the committee may take action on the
12 regulation pursuant to section 7(d). If at the expiration of
13 the [14-day] period established under paragraph (2) the
14 committee has not taken action on the regulation pursuant to
15 section 7(d), the agency may promulgate the regulation.

16 (j.3) If the committees are prevented from completing their
17 [14-day] review during the period established under subsection
18 (j.2)(2) because of adjournment sine die or expiration of the
19 legislative session in an even-numbered year, their review of
20 the final-form or final-omitted regulation shall automatically
21 be suspended until the fourth Monday in January of the next
22 year. On that date, the agency shall resubmit the final-form or
23 final-omitted regulation and required material to the committees
24 and the commission. If either committee has not been designated
25 by the fourth Monday in January, the agency may not deliver the
26 final-form or final-omitted regulation and required material to
27 the committees and the commission until both committees are
28 designated. If the agency does not deliver the final-form or
29 final-omitted regulation and required material to the commission
30 and the committees by the second Monday after the date by which
31 both committee designations have been published in the
32 Pennsylvania Bulletin, the agency shall be deemed to have
33 withdrawn the final-form or final-omitted regulation. In
34 determining the remaining time for committee review, the number
35 of days in which the committees have had the final-form or the
36 final-omitted regulation under review as of the adjournment sine
37 die or expiration of the prior session shall be subtracted from
38 the [14-day] committee review period established under
39 subsection (j.2)(2), but the committee review period in the next
40 succeeding legislative session shall not be less than ten days.
41 An agency may not submit a final-form or final-omitted
42 regulation to the commission or the committees for review during
43 the period from the adjournment sine die or expiration of the
44 legislative session of an even-numbered year to the date by
45 which both committees have been designated in the next
46 succeeding legislative session. This subsection shall not apply
47 to emergency-certified regulations adopted pursuant to the
48 provisions of section 6(d).

49 * * *

50 Amend Bill, page 3, line 7, by striking out "3" and inserting

Amend Bill, page 3, by inserting between lines 7 and 8

Section 5.3. Regulations deemed withdrawn.

A regulation shall be deemed withdrawn if there is no provision of a State statute which explicitly states that the agency may promulgate regulations for the specific purpose cited in the statement of need for the regulation under section 5(a)(3) and the regulatory analysis form submitted for the regulation does not comply with the requirements of section 5(a)(1.1).

Section 5. Section 7(d) of the act is amended to read:
Section 7. Procedures for subsequent review of disapproved final-form or final-omitted regulations.

* * *

(d) Upon receipt of the commission's order pursuant to subsection (c.1) or at the expiration of the commission's review period if the commission does not act on the regulation or does not deliver its order pursuant to subsection (c.1), [one] the following apply:

(1) One or both of the committees may, within 14 calendar days or 6 legislative days, whichever is longer, report to the House of Representatives or Senate a concurrent resolution and notify the agency. During the [14-calendar-day] period specified in this paragraph, the agency may not promulgate the final-form or final-omitted regulation. If, by the expiration of the [14-calendar-day] period specified in this paragraph, neither committee reports a concurrent resolution, the committees shall be deemed to have approved the final-form or final-omitted regulation, and the agency may promulgate that regulation.

(2) If either committee reports a concurrent resolution before the expiration of the [14-day] period specified in paragraph (1), the [Senate and the House of Representatives] chamber to which the concurrent resolution is reported shall [each] have 30 calendar days or ten legislative days, whichever is longer, from the date on which the concurrent resolution has been reported, to adopt the concurrent resolution[.] and transmit it to the other chamber. The other chamber shall have 30 calendar days or ten legislative days, whichever is longer, from the date on which the concurrent resolution has been transmitted, to adopt the concurrent resolution.

(3) If the General Assembly adopts the concurrent resolution by majority vote in both the Senate and the House of Representatives within 60 calendar days or 20 legislative days, whichever is longer, from the date on which a concurrent resolution has been reported out by a committee, the concurrent resolution shall be presented to the Governor in accordance with section 9 of Article III of the Constitution of Pennsylvania.

(4) If the Governor does not return the concurrent resolution to the General Assembly within ten calendar days

1 after it is presented, the Governor shall be deemed to have
2 approved the concurrent resolution.

3 (5) If the Governor vetoes the concurrent resolution, the
4 General Assembly may override that veto by a two-thirds vote in
5 each house. The Senate and the House of Representatives shall
6 each have 30 calendar days or ten legislative days, whichever is
7 longer, to override the veto. If the General Assembly does not
8 adopt the concurrent resolution or override the veto in the time
9 prescribed in this [subsection] paragraph, it shall be deemed to
10 have approved the final-form or final-omitted regulation.

11 (6) Notice as to any final disposition of a concurrent
12 resolution considered in accordance with this [section]
13 subsection shall be published in the Pennsylvania Bulletin.

14 (7) The bar on promulgation of the final-form or final-
15 omitted regulation shall continue until that regulation has been
16 approved or deemed approved in accordance with this subsection.

17 (8) If the General Assembly adopts the concurrent resolution
18 and the Governor approves or is deemed to have approved the
19 concurrent resolution or if the General Assembly overrides the
20 Governor's veto of the concurrent resolution, the agency shall
21 be barred from promulgating the final-form or final-omitted
22 regulation.

23 (9) If the General Assembly does not adopt the concurrent
24 resolution or if the Governor vetoes the concurrent resolution
25 and the General Assembly does not override the Governor's veto,
26 the agency may promulgate the final-form or final-omitted
27 regulation.

28 (10) The General Assembly may, at its discretion, adopt a
29 concurrent resolution disapproving the final-form or final-
30 omitted regulation to indicate the intent of the General
31 Assembly but permit the agency to promulgate that regulation.

32 Section 6. The act is amended to by adding a section to
33 read:

34 Amend Bill, page 3, line 13, by striking out "regulation the
35 commission disapproved" and inserting

36 final-form regulation or final-omitted regulation that is an
37 economically significant regulation for which the commission
38 issued a disapproval order

39 Amend Bill, page 3, line 16, by striking out "order." and
40 inserting

41 regulation. The concurrent resolution shall be referred to
42 the applicable standing committee of the Senate and the
43 applicable standing committee of the House of Representatives. A
44 concurrent resolution that is reported from the standing
45 committee of the Senate shall be placed on the Senate calendar.
46 A concurrent resolution that is reported from the standing
47 committee of the House of Representatives shall be placed on the

1 House calendar.

2 Amend Bill, page 3, line 20, by inserting after "resolution"
3 to consider the concurrent resolution

4 Amend Bill, page 3, line 26, by striking out "4" and
5 inserting

6 7

7 Amend Bill, page 3, line 28, by striking out "5" and
8 inserting

9 8